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PTO/SB/21 (07-06)

TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

Total Number of Pages in This Submission

| | |
|------------------------|------------------|
| Application Number | 09/863,124 |
| Filing Date | May 22, 2001 |
| First Named Inventor | Ashton, Jason A. |
| Art Unit | 3627 |
| Examiner Name | Marissa Thein |
| Attorney Docket Number | 026146-000310US |

ENCLOSURES (Check all that apply)

- | | | |
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| <input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Reply to Missing Parts/ Incomplete Application <input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53 | <input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____ <input type="checkbox"/> Landscape Table on CD | <input type="checkbox"/> After Allowance Communication to TC <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): 1. Response to Decision on Petition 2. COPY postcard 3. COPY Amendment 4. Return Postcard |
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Remarks

The Commissioner is authorized to charge any additional fees to Deposit Account 20-1430.

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

| | |
|--------------|------------------------------------|
| Firm Name | Townsend and Townsend and Crew LLP |
| Signature | |
| Printed name | Robert C. Colwell |
| Date | December 18, 2006 |

Reg. No. 27,431

CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.

Signature

Typed or printed name

Margaret K. Stephan

Date

December 18, 2006



PATENT
Docket No.: 026146-000310US

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Jason ASHTON

Application No.: 09/863,124

Filed: May 22, 2001

For: INTERNET AND WIRELESS
INTEGRATED VIRTUAL PRESENCE

Confirmation No.: 9581

Examiner: Marissa Thein

Art Unit: 3627

**Response to Decision on Petition and
Request for Reconsideration**

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Counsel for Assignee is in receipt of the Decision on Petition dated November 7, 2006, wherein the Petitions Office indicates that no reply was included with counsel's Petition to Revive. A review of the file indicates that an amendment in reply to the last Office Action was in fact mailed together with the Petition to Revive on October 10, 2006, via Express Mail No. EV824646042US. It is further noted that the Patent Office Mailroom acknowledged receipt of the amendment on October 10, 2006, by date stamping the counsel's return receipt postcard, copy attached.

Based on such evidence, Counsel now requests reconsideration of the Petition to Revive. A copy of the amendment as submitted with the original Petition is enclosed for convenience of the Petitions Examiner.

If the Petitions Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 650-324-6303.

Respectfully submitted,

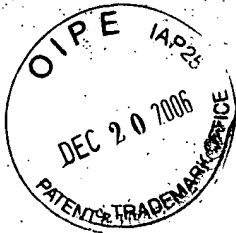
Robert C. Colwell
Reg. No. 27,431

Jason ASHTON
Application No.: 09/863,124
Page 2

PATENT

TOWNSEND and TOWNSEND and CREW LLP
Two Embarcadero Center, Eighth Floor
San Francisco, California 94111-3834
Tel: (415) 576-0200
Fax: (415) 576-0300
RCC:rcc

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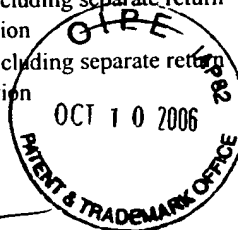
TO THE U.S. PATENT AND TRADEMARK OFFICE:

60888434 v1

| | | | |
|-------------------|---|-------------|-----------------|
| Application No.: | 09/863,124 | Docket No.: | 026146-000310US |
| Confirmation No.: | 9581 | Attorney: | RCC:mks |
| Due Date: | --- | | |
| Date Mailed: | October 10, 2006 (via Express Mail EV824646042US) | | |

Please stamp the date of receipt of the following documents and return this card to addressee.

- Petition for Revival of an Application for Patent Abandoned Unintentionally (x2)
- Amendment
- Divisional Patent Application (Our Ref. 026146-000340US), including separate return receipt postcard itemizing paperwork for divisional application
- Divisional Patent Application (Our Ref. 026146-000350US), including separate return receipt postcard itemizing paperwork for divisional application





PATENT
Attorney Docket No.: 026146-000310US

COPY

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Jason ASHTON

Application No.: 09/863,124

Filed: May 22, 2001

For: INTERNET AND WIRELESS
INTEGRATED VIRTUAL PRESENCE

Customer No.: 20350

Confirmation No. 9581

Examiner: Marissa Thein

Technology Center/Art Unit: 3627

Amendment

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the Office Action mailed October 28, 2005, on the above-referenced application, please enter the following amendments and remarks:

Amendments to the Claims are reflected in the Listing of Claims which begins on page 2 of this paper.

Remarks/Arguments begin on page 5 of this paper.

Amendments to the Claims:

This Listing of Claims will replace all prior versions and listings of claims in the application:

Listing of Claims:

Claims 1-38 (canceled).

39. (new) A method of managing bidding in a computer-facilitated auction, the method comprising:

determining a first ending time for ending bidding in the computer-facilitated auction;

determining a first time period by which the first ending time of the computer-facilitated auction will be extended upon receipt of a bid within a second time prior to the first ending time;

receiving a bid within the second time period; and

in response to receiving the bid within the second time period, extending the first ending time by the first time period; and

ending the computer-facilitated auction after the first ending time when no bids have been received for a time period equal to at least the first time period.

40. (new) The method of claim 39 further including:
after the first ending time, receiving another bid; and
again extending the time for ending bidding.

41. (new) The method of claim 39 wherein ending the computer-facilitated auction occurs when no bids have been received for a time equal to at least the first time period and the first ending time has passed.

42. (new) The method of claim 39 further comprising notifying at least one bidder of the bid received within the second time period.

43. (new) The method of claim 42 further comprising notifying all bidders of the bid received within the second time period.

44. (new) The method of claim 42 further in which the step of notifying at least one bidder comprises sending a notification via a plurality of different communication channels.

45. (new) The method of claim 44 wherein the step of sending a notification includes sending the notification through a wireless network to a receiving device, the receiving device being configured to enable the at least one bidder to make another bid.

46. (new) The method of claim 44 wherein the communication channels comprise at least one of a wireless network coupled to a mobile telephone, an internet connected phone and a wireless personal digital assistant.

47. (new) The method of claim 39 further including notifying a plurality of bidders of the step of extending the first ending time by using a computing network.

48. (new) The method of claim 47 wherein the computing network uses instant messaging to notify the plurality of bidders.

49. (new) A computing system configured for managing an auction, the computing system comprising:

means for determining a first ending time for ending bidding in the computer-facilitated auction;

means for determining a first time period by which the first ending time of the computer-facilitated auction will be extended upon receipt of a bid within a second time prior to the first ending time;

means for receiving a bid within the second time period; and

means in response to receiving the bid within the second time period, for
extending the first ending time by the first time period; and

means for ending the computer-facilitated auction after the first ending time when
no bids have been received for a time equal to at least the first time period.

REMARKS/ARGUMENTS

New counsel for Applicant hereby responds to the Office Action mailed October 28, 2005. Included with this response is a Petition for Revival of an Application as unintentionally abandoned.

In the Office Action claims 11-24 were presented for examination. All other claims have been withdrawn from consideration. By this response counsel has canceled all pending claims and submits herewith new claims 39-49. These new claims are believed to patentably distinguish the cited references and to overcome the Section 101 rejection, as discussed next.

The previous claims were rejected under 35 U.S.C. § 101 because they were stated not to provide an "end result." By this response counsel has substantially rewritten the claims in a manner believed to overcome this rejection. In particular, the claims now characterize a method for managing bidding in a computer-facilitated auction. As presented, the claims call for defining a first ending time at which bidding is to be terminated in the computer-facilitated auction. Also determined is a first time period by which the ending time of the action will be extended if a bid is received within a second time prior to the ending time. When a bid is received during that second time period, the first ending time is extended. The process is then repeated as necessary, and the computer-facilitated auction is ended after the first ending time when no bids have been received for a time period equal to the first time period. Claim 49 characterizes this same system in a means-plus-function claim format.

With regard to the Examiner's Section 101 rejection, it is believed that the new claims presented more clearly state a useful, concrete and tangible result, a method of managing bidding in a computer-facilitated auction.

The previous claims presented were rejected under Section 102(e) as anticipated by U.S. Patent 6,216,114 to *Alaia et al.* The focus of *Alaia et al.* is opposite to that of Applicant's invention. In *Alaia et al.* a supplier-bidding auction is defined in which bid prices start out high and move downward as bidders interact to establish a closing price. As a result, the auction is among one buyer and many potential suppliers. In a typical circumstance, for

example, parts for larger products are being bid upon. In the '114 patent, these parts are defined as consisting of things such as "gears, bearings, appliance shells..." (column 2, lines 33-36).

The '114 patent is intended to prevent auction "collisions." As explained in column 9, at lines 12-24:

"In multi-market, or multi-lot bidding events, where prior market lots run into overtime, the closing times of subsequent market lots are dynamically altered during the course of an event to maintain a minimum time period between market closings.... This insures that markets do not 'collide' or run on top of one another when overtime from an earlier market lot continues past the scheduled closing time for a subsequent market lot.

Bidders are guaranteed that markets close one at a time, so they are not placed in the position of having to bid for different market lots at the same time."

As evident from the above description, the essence of the '114 patent is to enable a bidder, for example, for gears, to not be required to make multiple bids on different lots at the same time, with the resulting possibility that more gears will be purchased than the buyer requires. Because the auctions close one at a time, a bidder for the gears is not placed in the position of having to bid for different market lots of the same gears at the same time.

The Applicant's invention herein has a different focus. One underlying benefit of Applicant's invention herein is that sellers of items in auctions are assured of getting the maximum price for their items, by assuring that the bidding continues after a scheduled closing time if there is continuing interest among potential purchasers in acquiring the item. For example, assume the bidding on a particular item would normally close at 1:00 p.m. In this example, also assume that if any bid is received in the last 15 minutes before 1:00 p.m., then the ending time of the auction will be extended, for example, assume by 10 minutes. If a bid is received within the last 15 minutes of the auction, then the auction will be extended to 1:10 p.m. As long as bids are received within 15 minutes prior to the closing time (now set for 1:10 p.m.), the auction will continue to be extended. When bidding stops and no bids are received within the first time period (15 minutes in this example), then the auction closes at the newly-extended closing time, and the item is sold.

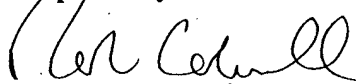
Note that unlike the '114 patent the time periods are extended based on bidding, and not based upon the closing period of any other auction. In '114, the items being auctioned

are related to each other, and the closing time of bidding on one item will be impacted by the closing time of bidding on some other item.

For these reasons, the newly-presented claims herein are believed to patentably distinguish the *Alaia et al.* reference and to overcome the Section 101 rejection.

Should the Examiner have questions, she is invited to telephone the undersigned at 650-324-6303 (direct).

Respectfully submitted,



Robert C. Colwell
Reg. No. 27,431

TOWNSEND and TOWNSEND and CREW LLP
Two Embarcadero Center, Eighth Floor
San Francisco, California 94111-3834
Tel: 650-326-2400
Fax: 415-576-0300
RCC: mks
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